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who was reputed to possess strong and deadly magic had threatened his life; a family head in Kutigi that his family was too highly taxed; a man in Pichi that a neighbour had beaten his goat (which the other man had found eating his grain): these are some of the cases which a village chief and his elders may daily be called upon to decide.

The procedure is nearly always the same. The various news, requests, or complaints are communicated at once to the chief, directly, if the supplicant or bearer of the news has the chief's ear, that is, is himself a titled elder, and indirectly, through the family head or the *efutsó* (head) of the *efu* in which he lives, if the bearer of the news is an ordinary peasant. Upon receiving the news the chief will summon the head *nūsa* (the *Sheshī* in Mokwa, the *Lile* in Doko, the *Ndeji* in other villages), and he in turn will call together the other members of the council whose co-operation is required: two or three of the senior elders—the members of the 'inner council'—and always the *nūsa* to whose kinship group or *efu* the litigant or supplicant belongs. Not only does this *nūsa* act, as we have seen, as the official informant of the chief on all matters concerning his group and locality, but his intimacy with the people whose case is to be heard, and his moral influence, make him an important witness and, when a decision has been reached, a guarantor of its execution. Before this tribunal, then, supplicants and litigants in the village appear. The discussion that ensues is informal, and devoid of the stiff procedure that characterizes, for example, the Native Court. Supplicant or plaintiff state their case in a few sentences—the Nupe are not fond of long speeches and elaborate expositions. Obscurities in the statement are unravelled in patient cross-examination, in which everyone present can take part. Then, at one point, the chief or a *nūsa* may suggest a solution, which may be agreed to by the others with the stereotyped expression *u ge*, 'it is well', or revised in renewed discussion. Very rarely do tempers flare up and the discussions become heated. The final decision of the chief and his council is pressed home in the form of advice, persuasion, warning. A discussion of this kind rarely lasts longer than two or three hours, after which time it will be interrupted to be resumed on a following day. Mostly one or two sessions suffice to arrive at the final decision.

But then, in more difficult cases, in which many witnesses have to be called and thorny problems of arbitration settled, the decision is taken out of the hands of the village executive. For the chief is not entitled to dispense formal justice and to enforce arbitration. He must send all legal cases to the professional Mohammedan judge (*Alkali*) of the district; moreover, litigants who are dissatisfied with the chief's decision may themselves bring their case before the professional judge or the District Head (a point to which we shall return later). This limitation of village jurisdiction makes it impossible to pronounce in more detail on the efficiency of the village council and the way in which it handles, or could handle, more severe conflicts. The gamut of advice, persuasion, and warning is the only one which it can use: the more strident notes of authoritative orders and severe reprimands are outside its scale.

That they, too, have a rightful existence in the administration of village affairs is shown in the organization, by chief and elders, of all concerted

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The rest of Nupe Kingdom was divided up into smaller and larger

'countries' comprising each a town with its dependent villages and *tunga* which were administered as fiefs through feudal lords or *egba*. The *egba*—a member of the royal house or of the office nobility, or a court slave—received the fief from the king together with his rank with which the fief remained permanently linked. Mokwa was known as the town of the *Shaba*, Eggã as the town of the *Ndeji*, Kutigi and Enagi belonged to the *Ndatwaki*, and so on. Promotion to a higher rank brought with it appointment to another, more lucrative, fief. The feudal lord himself lived in the capital and rarely visited his possession. The local affairs, the collection of tax, were in charge of his representative, one of his slaves or serfs who was residing on his lands as *egbagi*, Small Delegate. Of the tax collected in these fiefs, again a money tax, a quarter went to the king and three-quarters were retained by the *egba*, who returned a small share to his *egbagi*, salary and commission in one. Sometimes the towns or districts also paid an additional tribute in kind both to *Etsu* and *egba*. I have been able to collect some data about the tax levied in these areas. The uniform information which I obtained from different sources leads me to believe that the facts are substantially correct. The town Kutigi, according to my informants, paid under *Etsu* Umaru a money tax of 20,000 cowries (about 10*s*.) to the *Etsu* through the *egba*; to the *egba* himself 10,000 cowries (5*s*.) and to the *egbagi* 5,000 cowries (2*s*. 6*d*.). In addition to this, the people of Kutigi sent the *Etsu* 20 mats of the kind which has made Kutigi the centre of a famous mat industry, worth over £1, 4 bundles of corn worth about 7*s*. 'for the king's horses', and 10 mats and 1 bundle of corn to the *egba*. In modern money, the total tax of the town which at that time had eight *efu* and a population of perhaps 500, amounted to between £2 and £3.[1]

The feudal lord in Bida was responsible to the king for law and order in his district. The appointment of the village chief was, again, subject to royal confirmation. The overlordship of the king also implied the right of appeal of the villagers to the king against oppression or injustice from their feudal lord.[2] Lastly, the *egbagi*, together with the village chief, administered justice in the smaller cases and sent all bigger cases to Bida, where the *egba* himself would plead the case of his tenants before the court of *Etsu* and *Alkali*.

A variety of the fiefs just discussed were bestowed on individuals, relatives, courtiers, or favourites of the king, as personal fiefs, independent of rank and office. Even women could hold fiefs of this kind. These fiefs were sometimes hereditary and sometimes reclaimed by the king after the death of the holder. They were very small, single towns or villages, but one person could hold two or more such fiefs—which, however, were never adjacent lest the power in the hands of one person

[1] Oldfield reports that in 1832–4 (i.e. under *Etsu* Usman) Eggã, one of the largest towns of Nupe at that time, paid an annual tax of 120,000 cowries, that is, about £3 (Laird and Oldfield, op. cit., ii. p. 39). This fits in very well with the data I obtained.

[2] The people of Mokwa once availed themselves of this right to lodge a complaint against their feudal lord. When I asked my informants what the result had been, they shrugged their shoulders and said: 'The *Etsu* promised to help us; but does one Fulani go against another Fulani?'

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673 civil and criminal law, defined two classes of delicts: simpler delicts, which were settled by 'repairing' the damage that had been done, and here the Nupe did not speak of sentence or judgement but of *gyara*, reparation, or arbitration; and graver delicts, 'criminal' cases in the modern sense, which called for formal judgement and punishment—*sheri'a*. The following table summarizes the various crimes and offences according to this twofold classification. Let me emphasize that these data are widely known, and that every village elder or older man in Bida is able to enumerate and explain the types of offences and the nature of the punishment. This wide-spread legal knowledge is clearly the psychological counterpart of the systematic co-ordination and centralization of Nupe jurisdiction.

Offences involving *gyara*	Offences involving *sheri'a*
Debts, small.	Debts, large.
Theft on a small scale and during the day; theft of fowls, sheep, and goats.	Theft on a large scale, theft of cattle or horses, and all theft committed during the night.
Adultery.	Adultery leading to fights and bloodshed.
Seduction of girl by unmarried man who is willing to marry her.	Seduction by married man who refuses to marry the girl.
	Murder and manslaughter.
	Highway robbery.
	Arson.
	High treason, i.e. rebellion of feudal lords against the king.
	Lèse-majesté (*gi tokó nyá tsu*, lit. abuse of the king).

692 The first type of offences was a matter for the local authority. In the royal domains it was dealt with by the chief and the elders, in the fief by the delegate of the feudal lord who resided in the village, in consultation with chief and elders. The sentences which this local tribunal could inflict were fines, flogging, and *sheldá*, a practice closely akin to pillory: the culprit was marched through the village accompanied by drummers who proclaimed his offence.

The graver crimes, crimes which demanded *sheri'a*, were referred to the central authority—the court of the king and *Alkali* in Bida. They were, in fact, also called *leifi nyá tsu*, 'crimes of the king'. This highest court of Nupe could inflict sentences of every order, above all, the death penalty. The offences were brought to the notice of the central authority 694 through the feudal lords and delegates. The villagers would report to their overlord in the town, or the feudal lord would have the news from his local delegate, and would then inform the supreme court of Nupe. The criminal was apprehended by the king's slave police and taken to the capital where the court was sitting. This system which made the 696 feudal lords and delegates the 'recorders' of crimes and offences laid itself open to many abuses. The feudal lords could be influenced in favour of a better paying claimant, or prevented by bribes from reporting a particular case. The usual procedure as regards, for example, theft or debts was described to me thus: Up to the value of 10s. nothing

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would happen: 'you give the *egba* half this sum, he will quash the case, and you will still have a profit of 5*s*. Of course, if a larger sum is involved this is not so easy, for such an amount is difficult to hush up, and too many people would know about it.'

The judicial procedure in the capital followed, till recently, two different principles: the *sheri'a gboró*, 'straight judgement', for pagans, and the *sheri'a nya kurani*, 'judgement according to the Koran', for Mohammedans. The former represented the 'customary law' of the country, which would do justice to the local pagan customs; it also implied the oath on the sacred objects of pagan Nupe, especially the chain of Tsoede. The latter followed the written Mohammedan law and implied the oath on the Koran. Punishment of ordinary criminals was performed in the capital, on the open market—be it flogging, *shelá*, or capital punishment. In the case of political offences and in the case of men of rank, royal princes, or members of the high nobility, the execution took place under the cover of night and in the secrecy of their own houses. Whether this 'preferential' treatment expressed a last privilege granted to the ruling classes or whether such secrecy was thought to uphold the morale of the feudal kingdom I cannot say.[1]

All the various crimes and offences listed in our table became actionable only when there was a plaintiff. The state itself did not undertake to prosecute unless it was appealed to first by a person bringing a charge against some other person—with one exception: the crime *lèse-majesté*. The widespread knowledge with regard to this crime and its punishment in districts and groups which certainly never came into personal contact with the king precludes the assumption that in this case, too, the legal executive waited for a concrete charge being brought by the plaintiff in question, i.e. the king. Rather we must assume that the crime became actionable in an absolute sense, whenever and wherever it was committed, provided that witnesses of the act existed. Whether the information about the crime reached the central authority through private information or denunciation, or through the official channels of delegates and sub-delegates, I cannot say; but the important fact is that here the state took the initiative in prosecuting the offender. We have here the instance of an indictable offence in the modern sense of the word—a legal definition unparalleled in any known primitive system of law.

In this comprehensive and strongly centralized jurisdiction the political system of Nupe achieved its strongest hold over the peoples of the kingdom. Here the co-ordination of morality, the uniformity of cultures of which we have spoken, is secured by the most effective weapon, the coercive machinery of state jurisdiction. We possess certain evidence which shows that this comprehensive co-ordination was achieved gradually, and that the political system extended its judicial

[1] I have referred already to the ancient, pre-Fulani, judicial organization of the *ledu*, the 'King's Hangmen', who lived in villages on the Niger and there, far from the king's town, executed the criminals who were condemned to death (see p. 73). It is interesting to mention here certain stories current in Bida which record that the *ledu* organization was still used in the time of *Etsu* Usman against rebels of royal blood, who were imprisoned in Giragi, the *ledu* town closest to Bida.

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692 control further and further in the course of time into domains of social life hitherto unaffected by state law. This extension proceeded on two planes: centralized control superseding local jurisdiction, i.e. moving the line of division between 'offences' and' crimes', and formal political law usurping domains that had been left originally to the informal workings of public opinion or self-help. An instance of the former is the treatment of witchcraft: we have heard of the secret anti-witchcraft society which the Nupe villagers could summon to detect and punish witches, and we have heard also that this secret society was brought later under the control of the Fulani rulers of Nupe. An instance of the second form of extension appears to be the treatment of adultery. Informants told me that formerly, at least in pagan communities, adultery was dealt with, not by legal measures but either by a religious sacrifice meant to safeguard matrimonial sanctity, or by self-help on the part of the husband, who was within his rights to beat up the paramour whom he caught *in flagrante*, strip him of his clothes, and drive him out into the street naked.

Now this strengthening of state jurisdiction is understandable from the viewpoint of the dynamic state endeavouring to extend its control over new groups and new aspects of social life. But here we note the rather surprising feature that there are indications of the subject groups themselves having welcomed and invited the extension of state jurisdiction. I was told in Mokwa that during the Fulani régime fathers of headstrong sons sometimes appealed to their feudal lord, and that the latter would lend his authority to the more severe forms of domestic punishment (i.e. flogging). This official cognizance of what is essentially a 'family affair' clearly represents an incipient stage of state jurisdiction. It is only one step from this appeal for moral support of the official organ of the state to a full acceptance of political jurisdiction in the sphere of kinship offences or litigations, for example litigation over inheritance or divorce, which has become reality to-day. How are we to explain this readiness on the part of the people to surrender the sanctions of custom and self-help to state jurisdiction?

The explanation lies in the evolution of the divided legal authority which had made this development inevitable. Two competing authorities of different range of power existing side by side and concerned with the same or closely similar domains of social life must be in danger of frustrating each other, as individuals dissatisfied with the decisions of one may be tempted to obtain help from the other. The elimination or (as in Nupe) surrender of the weaker authority is the result. Family heads could maintain their paternal authority only by appealing for support to that authority which had superseded their own in other social domains. We may formulate it almost as a social law that an expanding system of jurisdiction, once it begins to supersede another weaker system of jurisdiction, is bound to expand further; culture change in this sphere appears to be carried on by its own momentum.

But inevitable as is this development, so are the conflicts inherent in it. The surrender of new domains of social life to the judicial authority of the state means potentially surrender to an alien law. In our example

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the family heads invited the intervention of the political authority in the interest of preserving the existing code of conduct. But once this extraneous authority is admitted, it will have to be obeyed also should its decision run counter to the traditional code. Moreover, the rival authority may be appealed to equally by individuals or groups dissenting from the traditional conceptions of right and wrong. Ultimately, the issue will depend on whether the representatives of state jurisdiction are prepared to uphold customary practices and codes of conduct, or are committed to promote a uniform state law. The trend towards close political co-ordination and centralization must greatly limit the scope of such concessions as might be granted to the divergent legal conceptions in the various subject communities. The extension of state jurisdiction over new domains of social life may thus come to mean the substitution of existing traditional codes and doctrines by a new uniform state law.

I have stated this as a hypothetical case, being unable to produce concrete evidence to show that precisely this development occurred in the case of the various delicts and offences over which we found state jurisdiction already firmly established. I can only point to certain evidence of the reaction of group sections against what must have appeared to them as an excessive unification of the law, namely, certain attempts to change state jurisdiction back to independent local jurisdiction: thus the chief of the Kyedye is reported to have obtained from *Etsu* Abubakari the right to exercise full and independent jurisdiction in his tribal group; and the people of Sakpe and Kutigi claim to have been granted a similar legal franchise by *Etsu* Masaba in exchange for heavier taxation. However, the progressive extension of state jurisdiction and the trends underlying this development are still visible and effective in present-day jurisdiction, to which we shall turn presently. They appear, characteristically, in that domain of social life which was the last to be absorbed by state jurisdiction—kinship—and concern the relation between the spreading modern state law of Nupe, Mohammedan law, and pagan customary practice.

Before we describe modern jurisdiction in detail we may examine for a moment the causes of the spreading of Mohammedan law in Nupe. It has no doubt been consciously fostered by the Mohammedan rulers of the country. But to some extent Fulani rule, still in British times, appears to have avoided excessive legal unification by allowing for customary pagan law—the 'straight judgement' in the case of pagans. Here, however, we find that the same effects that accompanied the 'divided authority' occur again in the case of the 'divided law'. The coexistence of two legal systems, one backed by the prestige and supreme power of the rulers of the country, the other reserved for the pagan subject groups, is again reduced to uniformity, the 'stronger law' ousting the 'weaker law'. We have concrete data to illustrate this process. The Mohammedan judges used to ask the parties appearing before them whether they were Mohammedans or pagans. The large majority proclaimed themselves Mohammedans, and desired to be tried according to Mohammedan law. Administrative Officers in areas where pagan and Mohammedan courts exist side by side also said that the people would generally prefer the Mohammedan court. They explain

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671 this attitude as due to the reluctance of the people to be classed with the more backward sections of the population. But there is also a more fundamental reason. Offences and litigation involve by their very nature dissension from established rules of conduct. It is thus often in the interest of offenders and litigants to dissociate themselves from traditional justice and to appeal to the rival law existing in the community. We shall see that in certain extreme cases the 'divided law' almost puts a premium on dissension from the traditional concepts of right and wrong.

692 In modern Nupe, then, Mohammedan law is paramount. The legal administration of the country is entrusted to *Alkalai*, judges trained in Mohammedan law, who reside in Bida and in the districts. The District Courts, of which there are seven in Bida Division, are courts of a lower grade—in official terminology, 'grade C courts'—that is, they are entitled to deal with civil cases involving fines up to £50 and criminal cases involving imprisonment up to six months, in case of theft up to twelve months. Bida town possesses a 'grade A court', the chief *Alkali*'s court, which combines the two different functions of a local court for the town and an appeal court for the districts. It has unlimited jurisdiction over all cases which under the Native Courts Ordinance are subject to the jurisdiction of Native Courts, i.e. excepting such cases as sedition, charges against Europeans, treason, trial by ordeal, and corruption of officials. The jurisdiction of the Bida Court also excludes homicide cases—an exceptional limitation which was imposed upon Bida after the disturbances of 1931. The *Etsu* with his councillors forms another 'grade A court' which deals with cases concerned with land, and constitutes at the same time a higher court of appeal for cases from the districts. The District Officer represents a final court of appeal for all cases. Cases excluded from native jurisdiction come before the High Court, which sits from time to time at the Headquarters of Niger Province, presided over by a professional British judge.

695 It is interesting to dwell for a moment on the description of a Native Court in action. Picture the court building: a spacious round house, with a gallery running round its outer wall. The *Alkali* has his place on a raised platform near the wall, books and papers spread out before him. On the floor, leaning against the platform, his assistant is sitting. In the Bida Court there are also scribes who take down the minutes of every case. Ushers, messengers, and sometimes policemen are standing at the doors. The Bida Court sits daily from 10 a.m. till 2 p.m., the District Courts whenever there are cases. The court procedure is very rigid. Plaintiffs and defendants are squatting in the centre of the court room, facing the judge, their hands folded in their laps; to rest one's hands on the ground means disrespect towards the *Alkali*. The place of witnesses is to the side and back of the plaintiffs and defendants. Women must sit in the outer gallery (at least in cases concerning divorce, adultery, and suchlike); they speak through a small window in the wall. You will recognize at once the peasant from the country: he sits there shy and frightened, often quite bewildered by the questions of the judge; often too, he has to be reminded to raise his voice, which is almost inaudible.

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But in the Bida Court temper may run high, especially when people of standing and wealth are involved who not infrequently will argue and remonstrate with the judge. I have seen judges lose their patience with such unmanageable parties, shout at them and threaten them with punishment for this 'contempt of court'.

Before the pretentious Bida Court with its office hours and fixed rules of procedure, its crowd of subordinate officials, assistants, scribes, ushers, policemen, a multitude of cases are brought daily which fit well into its up-to-date routine: offences against the by-laws of a modern town (riding a bicycle without light, or riotous behaviour in the street or the market, &c.) and all the various disputes bound to occur where you have an intensive trade, complicated money transactions, and suchlike. But before the same court come the cases (and in this book we are only concerned with these) that are the expression of tensions and conflicts of the society in its old unchanged form—cases of inheritance, divorce, witchcraft. The extension of native jurisdiction over the problems and conflicts of a modern urban community, which is merely a question of applying jurisdiction and executive under the guidance of the British Administration, is of less interest to us than the progressive penetration of formal political jurisdiction into the domains of traditional native life, which is a problem of legislation that the native society must itself solve. In this, the modern Native Court is the legitimate heir of the pre-British system of law—heir both to its strength and its weakness.

We may say that the modern legal system is both more comprehensive (embracing, above all, the domain of kinship) and, viewed from the standpoint of the groups which submit to its jurisdiction, more alien than the old system. To explain this we must for a moment go back to a question discussed previously. I have said that every extension of a uniform jurisdiction and legislation over new social domains involves potentially the substitution of a new law for original codes and conceptions, and thus a certain disparity between the recognized law and the culture of which the old conceptions were an expression. This disparity is clearly a phenomenon of transition: every society will tend in the course of time to eliminate such a hiatus—either by reacting against the expanding judicial system and forcing it to adjust its too extravagant claims (we shall presently encounter instances of this)—or by completing that process of cultural assimilation of which the co-ordination of legal concepts represents only one aspect. We may assume that our table of jurisdiction in pre-British times, which shows a certain system of law firmly accepted throughout the society, refers to aspects of culture in which this process of mutual assimilation has been completed. Whether or not my hypothesis is historically correct, we must admit that where the process is still in motion, where the politically-backed law is only just extending its hold over new domains, the disparity of which I have spoken must be visible. This is indeed the case to-day, when Mohammedan law is being applied to kinship offences.

It would go beyond the scope of this book to study the relation between Mohammedan law as it is practised in Nupe and the traditional concepts of kinship conduct and kinship rights and duties. I may be

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the *Alkali*, said one of my informants, and will think nothing of perjuring themselves.

Let me quote a significant instance. An Ebe man had refused to let his daughter marry a Hausa whom she loved, having a different suitor from Ebe country in mind for her. The Hausa brought the case before the *Alkali* of Kutigi (some 50 miles away); the *Alkali* instructed the father to give his blessing to the marriage on the grounds that the Koran decreed that no father should stand between two young people who loved each other. The father swore an oath to that effect on the Koran and returned home. But after a month the Hausa came back, reporting that the girl's father had renewed his opposition to the marriage. Three times they were summoned to court, and three times the father agreed in the presence of the *Alkali*, only to revoke his agreement afterwards. At last I happened to be in the court and asked the man if perhaps the Ebe disliked letting their daughters marry outside the sub-tribe or tribe. Evidently relieved, the man said that this was indeed the case. Curiously enough, the girl, who had till then stubbornly maintained her desire to marry the Hausa, declared that she would obey her father as soon as the customary marriage rule was brought up in the court.

This example also illustrates the effects of what I have called above the 'divided law': the girl and her suitor, well knowing that if they submitted to the customary law as it was upheld by her father and most probably the village elders would not be able to marry, appealed to the Mohammedan court, whose decision, as they anticipated, was favourable to them. Here we see what I have mentioned above—that in districts in which the customary conceptions of law still obtain, modern legislation puts a premium on breaches of the traditional usage. This is shown most clearly in litigation over inheritance. According to Mohammedan law the property and land left by a family head should be divided equally among the sons; traditional rules of inheritance hold that land and property should be inherited by the younger brother, and that sons and brothers' sons should stay on the land working under the heir as under their sociological father. This rule expresses the interest of a farming community in maintaining landed property so far as possible intact, while the Mohammedan rule does justice primarily to owners of movable property, money, trade goods, or cattle. Now, for reasons which we shall examine in a later chapter modern economic developments have led increasingly to the adoption of the Mohammedan solution. But were individuals still to attempt to enforce the traditional rule, dissatisfied family members could easily obtain a reversal of this decision by appealing to the Mohammedan court.

Again we observe the effectiveness of the 'social law' which we have formulated above, that a stronger law ousts a weaker law. The existence of the divided authority which favours 'dissenters' from traditional law, must force chief and elders—the guardians of traditional usage—to surrender in ever larger measure the authority which they are still holding to the stronger authority of the state law, even to invite its intervention—as did the family heads who appealed to their feudal lord for support of their paternal authority. It is important to emphasize this, as

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many Administrative Officers think it desirable that the village chiefs and elders should continue to practise their informal arbitration side by side with the existing official courts. Our data preclude the likelihood of such a parallel development; they show that the tendency is rather towards the virtual surrender of one to the other. We have heard that in the present-day judicial arrangement the Village Head is expected to send all legal cases which cannot be settled by arbitration to the District *Alkali*'s court. Now I have found the chiefs quite satisfied with this state of affairs, which freed them of the responsibility in more serious cases. Some seemed, in fact, quite frightened at the idea of taking over this responsibility themselves, and were only too ready to leave a larger and larger proportion of their judicial tasks to the professional judge. 'To-day', a chief said to me, 'people want written judgements in such cases as divorce, inheritance, debts; *ama mi de takarda à*, but I have no papers to give.' ('Papers' are only the modern symbols of the more powerful and more permanent authority wielded by state jurisdiction; in his own words the chief expressed the essence of that principle of 'divided authority'.

Shall we acquiesce with the chief in these results of an inevitable process of change? I think not. Politically, the chief is divested already of much of his former power. To divest him also of all judicial authority is to deprive him of the last vestige of the most vital prerogative of his office, which is the enforcement of a certain line of conduct upon his community, and to sanction all deviations from it as acts detrimental to the welfare of the community. It would amount to turning the chief completely into a petty executive official, entitled only to carry out orders, but with no right to voice public opinion. Besides, the disregard for local customs by the professional Mohammedan judges is felt as a real hardship by many. Even if more change is on the way, bound to promote the final assimilation of Mohammedan law and customary practice, its pace should be set by the people themselves, and not by an alien, uninterested judge. In the nature of things the solution must lie in a compromise. In my view the best compromise would be to vest the Village Head with the right (and, more important, the duty) to act as an assessor in the court, with full consultative authority, whenever cases from his community are brought before the *Alkali*.[1]

This does not contradict what I have said in a previous section about the 'parochial outlook' of the village chief. The parochial outlook may unfit him for responsible posts in the administration of the Emirate at large, such as District Headship, which call for a wide view and an appreciation of policy on, as it were, a national scale. But it is just this parochial outlook which qualifies the village chief eminently for dealing with legal cases, bound up as they are with local conditions. However, there is a wider issue involved in this question—the most intricate problem which modern administration has to solve, the problem of centralization versus local autonomy.

[1] This solution is envisaged in the Native Courts Ordinance, which leaves it to the discretion of the Native Court to appoint assessors from the ranks of village chiefs and elders.

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LEGAL PROCEDURE

627 The village head has limited and informal judicial powers. Minor cases are settled by him with two or three members of the council and the elders of the ward to which the litigant belongs. The procedure is informal and discussion rarely becomes heated. The authority of these courts is gradually being surrendered to the officially recognized courts. Cases requiring formal justice are referred to the 671 Native Court under the professional Moslem judge (*Alkali*) of the District.

692 In modern Nupe, Moslem law is paramount; the judges (pl. *Alkalai*) reside in Bida and the other Districts. The Bida town court is both a local court and appeal court for the Districts. The *Etsu* and his councillors form a higher court of appeal for cases concerned with land.

671 182 A marked disparity has been reported between Moslem law and the traditional culture, particularly in rural communities, where the social and economic conditions differ most widely from the social life of which Moslem law is an expression. Peasants who were familiar with and understood the old customary law, often insist, when they come before the courts, on being accompanied by a mallam or person of standing who is familiar with the " new " law.

Among the Kyedye the *Alkali* holds his court in Muregi; the *Kuta* (chief) and delegates (district heads) have no judicial authority.

692 696 Jurisdiction over grave crimes was formerly the responsibility of the *Etsu* Nupe. The death penalty was exacted for theft in the night, " big theft," murder, and treason. Traditionally the only villages in which executions could be performed were the *ledu* (pl. *leduzhi*) villages—Jebba, Gbere, Tada, Jiragi, Sulati, Fofo, Taiji, and Cewuru, which lie along the banks of the Niger 10 to 15 miles apart, between Jebba in the north and Eggan in the south. The king's hangmen resided here and a criminal was generally taken for execution to the *ledu* village nearest to his home.

778 782 Each of these villages possesses a " chain of Tsoede," generally kept at the chief's house; it is a typical heavy iron slave or prison chain, up to 30 ft. long, with arm- and leg-irons. Traditional sacrifices of beer and blood are made to it, and it protects the village from sickness and brings fertility to women. Jebba and Tada, the oldest of the *leduzhi*, also possess bronze figures."

INHERITANCE

428 The personal property of men is inherited by their sons, that of women by their daughters. The family farm goes to the relative next in seniority, younger brother or eldest son, in the classificatory sense."

586 A widow may be inherited by her husband's sister's son or her husband's younger brother; custom forbids remarriage with an elder brother. Islam, however, allows remarriage with elder or younger brother."

LAND TENURE

423 Land tenure in different parts of the country has been variously affected by two factors, namely the appropriation as estates held by the nobility of parts of the tribal lands after the Fulani conquest, and the density of population.

The royal house of Bida holds the title to certain lands by right of conquest. Land was also bestowed on others by the royal house for services rendered, and all individual titles to land are held to be ultimately derived from this one source. The clearing and first hoeing of the royal estates is done by large-scale communal labour. The subsequent work was formerly done by slaves, but to-day by paid labour.

Most of the appropriation of land occurred in the area east of the Kaduna River. Here population is more dense and there is a complex system of land ownership and transfer. Owing to the consequent shortage, disputes are frequent and particu-

" Nadel, 1942, pp. 86–8, 165–79; 1940a, p. 181; 1935b.
" Nadel, 1942, pp. 31–2, 245.
" Nadel, 1954a, pp. 249–50.

5: Nadel E-5 (1934-1936) 1947
FF52 Nupe FF52
Kede

like the other inland villages of Nupe, paid a certain annual money tax, assessed per village, which was collected by the *Kuta* and his delegates on behalf of the King of Nupe. The tax which the Kede themselves paid, on the other hand, was of two kinds: first, there was the tax proper, paid locally, at the village to which one belongs. It was an income tax in the modern sense, consisting in a percentage of the money income of every canoe-owner (i.e. profits from trade and transport). Second, there was the *albarka* (lit. 'blessing'), a tribute voluntary but in name, which canoe-owners were expected to pay to the delegates at whose place they were stopping and doing business. The tribute varied in amount: in Jebba it amounted to a 10 per cent., in Muregi to a 20 per cent. duty on all goods bought and sold. Failure to pay meant forfeiting the permission to call and trade in the district. The delegate returned to the *Kuta* half of his revenue from the tax proper, and one-fifth of the revenue from the *albarka*. The *Kuta*, in turn, handed about one-fifth of his total tax revenue (including tax on his private trade and canoe profits) to the *Etsu* in Bida.

Jurisdiction. The modern system provides for a professional Mohammedan judge (*Alkali*), who holds court in Muregi, and to whom all legal cases from the district have to be submitted. Native Administration police assist him on the executive side. The courts in the capital, Bida, are higher courts and courts of appeal for Kede as for all other districts of the Emirate. Under the new system, chief and delegate are allowed no judicial and only a limited executive authority.

In pre-British Nupe the maintenance of law and order devolved in different degree upon all existing political authorities, the local delegate, the Kede chief, and the Emir of Nupe, in accordance with the nature of the offence. The local delegate could only deal with very minor offences of the kind which involves no restitution and only domestic punishment, if any. All other aspects of public security were regarded as being of direct concern to the State—Kede or Nupe. Even the smallest theft came before the *Kuta* in Muregi; adultery, litigation about bride-price or inheritance similarly fell under his jurisdiction. Certain major crimes, on the other hand, were under the jurisdiction of the King of Nupe himself. The list of these 'crimes of the king' (as they are still called) comprises: highway robbery (including robbery on the river